C.S. 3001/13

(1)

IN THE HIGH COURT OF JUDICATORE AT BILASPUR

CHHATTISGARH

W.P. NO. .....2082...../2004

PETITIONERS : 1] Smt. Pushpa W/o. Sajandas
Aged about 42 years,
R/o. Devendra Nagar Raipur.

2] Omprakash S/o. Jeevanram
Aged about 51 years
R/o. Devendra Nagar Raipur.

3] Mahendra Pal Singh S/o. Ajit Singh
Aged about 34 years,
R/o. Devendra Nagar Raipur.

P.R. No. 2153/04
Presented by Shri M.V. Kanojia
dated 21-7-04

VERSUS

RESPONDENTS : 1] State of Chhattisgarh,
Through: Secretary,
Environment and Urhan
Development Department, D.K.S.
Bhawan, Mantralaya, Raipur (C.G.)

2] The Municipal Corporation,
Raipur a body incorporated
under Section 7 of the
Chhattisgarh Municipal
Corporation Act, 1956, having
perpetual succession and
common seal having its office at
Malviya Road, Raipur.

3] Commissioner,
Municipal Corporation Raipur,
Distt. Raipur (C.G.)

4) Raipur Development Authority through its Chief Executive officer Raipur C.G.

Amendment has been incorporated in view of order dt 4-3-2005
Nov - 4-3-2005.

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21-7-04
Clerk to A. G. Bilaspur

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

(49)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.2082/ सन् 2004

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

4-3-2005

Mr. Manoj Paranjpe, counsel for the petitioners.

Mr. G.K. Beriwal, Deputy Advocate General for the State/respondent No.1.

Mr. B.P. Sharma with Mr. Ajit Singh, counsel for respondents No.2 to 4.

Heard on I.A.No.990/2005, application for impleadment.

Learned counsel for the petitioners submits that during the pendency of this petition, the Raipur Development Authority has been reconstituted on 03-09-2004 in place of the Municipal Corporation, Raipur. Therefore, the Raipur Development Authority may be arrayed as respondent No.4.

For the reasons mentioned in the application, I.A.No.990/2005 is allowed. Learned counsel for the petitioners is directed to incorporate the amendment during the course of the day.

Also heard on the merits of the case.

The petitioners' petition is that the petitioners entered into an agreement for purchasing a land admeasuring 0.012 hectare of Khasra Nos.117/4 & 117/5 situated at Pandari Tarai, Tehsil & District: Raipur, with one Smt. Vimla Devi Agrawal, and subsequently, sale deed (Annexure P-1) was executed in favour of Rajesh Kumar & Mahendra Pal Singh on 09-10-1995. Vimla Devi had executed sale deed for full consideration and handed over the possession of the land at Pandari Tarai, Devendra Nagar, Raipur. The aforesaid land was situated in a scheme prepared by the Raipur Development Authority in scheme No.32 without acquiring that land by the Raipur Development Authority, and that land was recorded in the name of the petitioners in the revenue record. However, the petitioners, later on,

(मीछे देखिये)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.2082/ **सन्** 2004

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

came to know that the RDA without acquiring that land and without any proceeding of acquisition sold that land. Coming to know about this fact, the petitioners approached the RDA, and then the RDA authorities advised the petitioners to move an application for exchange of that land. Accordingly, the petitioners moved the RDA, and the RDA passed a resolution by which the land belonging to the land owners could be acquired by mutual agreement subject to the condition that the land owners surrender 60% of the land free of cost to the RDA and in lieu of that 40% of the land should be allotted to the land owners subject to payment of development charges.

The petitioners in view of the above decision moved an application Annexure P-4 on 20-11-1995, and in response to that application the petitioners were informed by the RDA that the Development Authority had an intention to acquire the land by mutual agreement and the RDA is ready and willing to allot the developed land to the petitioners. The proceedings for exchange of land were initiated on 15-01-1996 and the Patwari was directed to submit the report. Thereafter, on 10-07-1996 the Patwari had submitted the report that the land belonging to the petitioners has already been acquired by the RDA for construction of wholesale cloth market. The petitioners were given an understanding that the land situated at Indira Gandhi Commercial Complex, H-Block, Plot No.109 to 115 has already been allotted to them. The petitioners approached the respondents and also submitted applications for allotment of the land, but neither the applications submitted by the petitioners have been considered nor any order in respect of the allotment was passed by the respondents. The petitioners moved a representation (Annexure P-8) to the Commissioner, Municipal Corporation, Raipur on 19-07-2004.

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आदेश पत्रक

मामला क्रमांक W.P.2082/ **सन्** 2004

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Ultimately, the petitioners have requested that the respondents be directed to handover the vacant possession of the land situated at Indira Gandhi Commercial Complex, Devendra Nagar, Raipur, H-Block, Plot No.109 to 115 belonging to the petitioners, or direct the respondents to handover the vacant possession of the land belonging to the petitioners, bearing Khasra Nos.117/18 and 117/9 rakba 0056 situated at Devendra Nagar, Raipur.

During the course of the arguments, learned counsel for the petitioners was not able to show that the land situated at Indira Gandhi Commercial Compex, Devendra Nagar, Raipur, H-Block, Plot No.109 to 115 has in fact been allotted to the petitioners in exchange of the land, which was acquired by the RDA, belonging to the petitioners.

Learned counsel for the petitioners submitted that recently the RDA has been reconstituted and the RDA vide resolution dated 28-12-2004 has decided that 40% of the land be given to those persons whose lands have been acquired and they be asked to pay the development charges. Therefore, he submitted that in view of this resolution also the respondents be directed that if they are not able to give the original land of the petitioners back then they should give 40% of land to the petitioners preferably in Indira Gandhi Commercial Compex, Devendra Nagar, Raipur, and for that purpose the petitioners may be allowed to make a representation to the RDA to which, learned counsel for the respondents have no objection.

Having heard learned counsel for the parties and having regard to the facts and circumstances of the case, the petitioners are allowed to make a detailed representation raising all their points and grievances to the RDA within a period of ten days from today and in turn, the RDA shall decide the

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

representation of the petitioners within two months from the date of receipt of the same in an objective manner considering all the points raised by the petitioners. If the RDA reaches to the conclusion that in view of the RDA's policy decision the petitioners are entitled for 40% land in exchange of the land of the petitioners already acquired, then they can consider the claim of the petitioners for allotment of 40% land preferably, if available, in Indira Gandhi Commercial Compex, Devendra Nagar, Raipur. In case, particular land is not available, the RDA can consider the allotment of other land in consultation with the petitioners.

With the directions aforesaid, the petition stands disposed of.

Consequently, M.(W.)P.No.1874/2004 also stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

Soma

(पीछे देखिये)

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